



Home-Rule Charter

Amended May 14, 2011

PREAMBLE

We, the people of the City of The Colony, believing in modern government to meet modern needs while maintaining responsiveness to the desires of residents and of our community as a whole, do adopt this charter as the basic foundation of our city government.

We pledge ourselves to support our duly elected governing body in their administration both within and without the city.

We charge them to preserve the freedoms and independence which have been enjoyed by our city since its incorporation in 1977, undisturbed by conflict of commercial or political interests.

CHAPTER I.
INCORPORATION, BOUNDARIES AND LIMITS,
FORM OF GOVERNMENT AND POWERS

Sec. 1.01. Incorporation.

The inhabitants of the City of The Colony, Texas, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the "City of The Colony."

Sec. 1.02. Boundaries.

The bounds and limits of the City of The Colony, Texas, are hereby established as described in the original incorporation proceedings of the said City of The Colony, Texas, filed of record January 24, 1977, in the office of the clerk of the county court of Denton County, Texas, and those boundaries established and changed thereafter in all annexation ordinances and proceedings of the City of The Colony, Texas.

Sec. 1.03. Extension of boundary by petition.

Whenever a majority of the legally qualified property taxpaying voters who are citizens of the State of Texas and inhabitants of any territory adjoining the City of The Colony as said territory may be designated by the city council, or in case there are no such qualified voters in said territory, then when persons owning a majority of land in area in said territory desire the annexation of said territory to the City of The Colony, they may present a written petition to that effect to the city council and shall attach to said petition an affidavit signed by a majority of such qualified voters or in case there are no such qualified voters said affidavit shall be to the effect that there are no qualified voters in the said territory and that the persons signing said petition own a majority of the land in area in said territory. Thereupon, the city council at the regular session or a special session called in the manner required by the charter may by ordinance annex such territory to the City of The Colony and thereafter the said territory shall be a part of the City of The Colony and the inhabitants thereof shall be entitled to all the rights, privileges and responsibilities as citizens and shall be bound by the acts, ordinances, resolutions, and regulations of said city.

Sec. 1.04. Extension of boundary by city council.

The city council shall have power by ordinance to provide for the alteration and extension of said boundary limits by the annexation of additional territory lying adjacent to the city with or without the consent of the owners of the territory or the inhabitants annexed. Upon the passage of any such ordinance, the boundary limits of the city shall thereafter be as established in such ordinance and when any additional territory has been so annexed, same shall be a part of the City of The Colony and the property situated therein shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to all of the rights, privileges, and responsibilities of citizens of the city and shall be bound by the acts, ordinances, resolutions and regulations of the city.

Sec. 1.05. Rules for contraction of boundaries (disannex).

Whenever there exists within the corporate limits of the City of The Colony adjoining the outer boundaries thereof any territory not suitable or necessary for orderly planning and development of the city, the city council may, if uninhabited, or if same be inhabited upon a petition signed by a majority of the qualified voters residing in such territory, by ordinance duly passed disannex such property as a part of said city, and from and after the entry of such ordinance said territory shall cease to be a part of said city.

Sec. 1.06. Form of government.

The municipal government provided by this charter, shall be known as the "council-manager government." Pursuant to its provisions, and subject only to the limitations imposed by the Texas state constitution, the statutes of the State of Texas, and by this charter, all powers of the city shall be vested in the elected city council, hereinafter referred to as the "city council." The city council shall enact local legislation, adopt budgets, determine policies, appoint the judge of the municipal court, and appoint the city manager. The city manager shall be held responsible to the city council for the execution of the laws and the administration of the government of the city.

Sec. 1.07. General powers of the city.

The city shall have all powers that now are or hereafter may be granted to municipalities by the constitution or laws of the State of Texas, and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this charter, and when not prescribed therein, in such manner as may be provided by the ordinances or resolutions of the city council of the City of The Colony, the state constitution, or by the statutes of the State of Texas. The enumeration of particular powers in the charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city may exercise all other powers which, under the constitution and laws of the State of Texas, it would be competent for the charter specifically to enumerate.

Sec. 1.08. Specific powers.

The City of The Colony may use a corporate seal; may contract and be contracted with; may cooperate with the government of the State of Texas and any agency thereof, the federal government or any agency thereof, or any political subdivision of the State of Texas.

Sec. 1.09. Eminent domain.

The city shall have the full right, power and authority to exercise the power of eminent domain when necessary or desirable to carry out any of the powers conferred upon it by this charter, or by the constitution or laws of the State of Texas. The power of eminent domain hereby conferred shall include the right of the city to take the fee and easement in the lands so condemned, and such power and authority shall include the right to condemn, public or private property for such purposes. The city shall have and possess this power of condemnation of property within or without the corporate limits for any municipal or public purposes, even though not specifically enumerated herein or in this charter.

Sec. 1.10. Power to acquire property inside and outside the city for public purposes.

The city shall have the power to sell and to acquire by condemnation or purchase either private or public property located inside or outside of the corporate limits for public purposes. The procedure to be followed in any sale or condemnation proceeding hereunder and authorized herein shall be in accordance with the provisions of the state law with reference to eminent domain.

Sec. 1.11. Creation of building sites.

Should any property situated within the corporate limits of the city be now or hereafter platted into building sites, the owner or owners of said property shall comply with the general plan of the city, all provisions of the ordinances of the city, and all provisions of the applicable state laws.

Sec. 1.12. Street powers generally.

The city shall have exclusive domain, control and jurisdiction in, upon, over and under all alleys, streets, gutters and sidewalks situated in the city, and the power to lay out, establish, open, alter, widen, lower, extend, grade, drain, abandon and improve streets, alleys, sidewalks, squares, parks, public places and bridges and regulate the use thereof, and require the removal from streets, sidewalks, alleys, and other public property or places of all obstructions, telegraph, telephone or other poles, carrying electric wires or signs, encroachments of every nature or character upon any said streets and sidewalks, and to vacate and close private ways; and when a street or alley has been vacated or abandoned, the city shall have the right to sell the same as now provided by general laws of the State of Texas. The provisions of chapter 313 of the Texas Transportation Code, as amended, together with existing amendments as hereafter may be made and acts supplementary thereto, are expressly adopted and made a part of this charter. Such exclusive dominion, control and jurisdiction in, upon, over and under the public streets, avenues, sidewalks, parkways, alleys and highways of the city shall also include, but not be limited to, the right to regulate, locate, relocate, remove or prohibit the location of all utility pipes, lines, wires, or other property.

Sec. 1.13. Water system.

The city shall have the power to provide for and/or own a water system and to prescribe charges, rules, regulations, rates, and restrictions with reference to the use, consumption, waste, payment, cutoff, turn-on, connections and management of such system, and to prescribe penalties for violation of such rules and regulations.

Sec. 1.14. Sanitary sewer systems.

The city shall have the power to provide for and/or own a sanitary sewer system and to require property owners to connect their premises with such sewer system; and to provide penalties for failing to make sanitary sewer connections; and shall further have the right to fix charges and compensation to be charged by the city for sewerage service, and to provide rules and regulations for the collection thereof.

Sec. 1.15. Solid waste disposal.

The city shall have the power to provide for solid waste collection and disposal. The city council shall have the right by ordinance to adopt and prescribe rules and regulations for the handling of all garbage, trash and rubbish in the city, and shall further have the right to fix charges and compensation to be charged by the city for the removal of garbage, trash and rubbish, and to provide rules and regulations for the collection thereof.

Sec. 1.16. Parks, playgrounds, etc.

The city shall have exclusive control of all parks, and playgrounds and to control, regulate and remove all obstructions and prevent all encroachments thereupon; to provide for raising, grading, filling, terracing, landscape gardening, erecting buildings, swimming pools, and wading pools, tennis courts and other structures including, but not limited to, museums, libraries and art galleries.

Sec. 1.17. Fires.

The city shall have the power by ordinance or otherwise to provide means for protection against conflagrations and for the establishment, maintenance, support and regulation of a fire department and for guarding against fires. It may prescribe fire limits, stipulate and provide for minimum requirements for construction of buildings within such fire limits, regulate or prohibit the erection, building, replacing or repairing of buildings within such limits; may prescribe that the buildings within such fire limits be made or constructed of fireproof material; and may prohibit the repairing of buildings within such limits when the same have been damaged to within fifty (50) percent of the value thereof; and may declare all dilapidated buildings to be nuisances and direct the same to be repaired, removed or abated in such manner as the city council may prescribe; and may further prescribe limits within which only fireproof roofing may be used. It may also, by ordinance, regulate or forbid the storage of lumber, building materials of any kind or inflammable or explosive goods, wares and merchandise of any kind.

**CHAPTER II.
THE CITY COUNCIL: ITS COMPOSITION,
MEMBER QUALIFICATIONS AND RULES**

Sec. 2.01. Composition of city council.

The legislative and governing body of the city shall consist of a mayor and six (6) council members, and shall be known as the "city council" of the City of The Colony.

Sec. 2.02. Terms of office.

Each council member shall hold his office for a period of three (3) years. Should a duly elected successor be disqualified under the provisions of this charter or the laws of this State or the United States, the city council shall declare a vacancy and such vacancy shall be filled as provided in section 2.06 of this charter.

Sec. 2.03. Election methods.

- (a) Four (4) members of the city council, places 3, 4, 5 and 6 shall be residents of and elected by the qualified voters of single-member geographical districts of the city, as such districts may from time to time be determined by the city council and created and described by ordinance. Places 1 and 2 and the mayor shall be elected by the qualified voters of the entire city, commonly known as at-large.
- (b) The city council shall from time to time create and describe by ordinance election districts. Such districts shall be created so that each will contain, as nearly as possible, a population equivalent to the other districts to insure equal voting rights for all citizens under state and federal law.
- (c) Upon adoption of this section, the city council shall forthwith draw the election district boundaries and the district and at-large system shall take full effect with the next general election.

Sec. 2.04. Member qualification.

- (a) Each council member shall be a registered voter of the State of Texas and a resident of the City of The Colony, and (if applicable) the district from which he is elected at the time of filing for election and throughout his term of office. Each candidate for the office of mayor and each council member shall be a resident of the City of The Colony for not less than twelve (12) months immediately preceding election day.
- (b) If any council member fails to maintain the qualifications of office as set forth in this charter or by Texas law, or is convicted in any court of a felony or a Class A or Class B misdemeanor or a crime involving moral turpitude, or holds any other public office other than as a notary public or a member of the naval or military reserve or national guard, or shall move from the City of The Colony, or fails to attend three (3) consecutive regular meetings of the city council, without first being excused by the city council, then said council member shall automatically forfeit his office resulting in a vacancy and shall not hold over in office, and the city council shall fill said vacancy as set forth in section 2.06 of this charter.
- (c) In the event any one of the six (6) council members shall become a candidate for election to the office of mayor, or in the event the mayor or any council member shall become a candidate for election to any place on the council other than the office he is presently holding, such candidate shall tender his resignation from the office he presently holds which shall be effective as of the date of such election without any further act of acceptance. In the event the mayor or any one of the six (6) council members shall become a candidate for election to any other public office in the state, such candidate shall tender his resignation from the office he presently holds which shall be effective as of the date of his being sworn to that office, without any further act of acceptance. The remaining members of the city council shall fill said vacancy as set forth in section 2.06 of this charter.

- (d) In the event an employee of the city shall become a candidate for election to the office of mayor or council member, said employee shall immediately resign his position with the city.
- (e) No member of city council may become an appointed officer or employee of the city within one (1) year after vacating such office. No member of city council may become city manager of the city within two (2) years after vacating such office, consistent with section 4.01 of this charter.

Sec. 2.05. Vacancies and forfeiture of office.

The office of a council member or office of the mayor shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office for violation of any express prohibition of this charter.

Sec. 2.06. Filling of vacancies.

Should a vacancy in the city council occur, an election to fill such vacancy shall be held within one hundred twenty (120) days after such vacancy occurs, in accordance with the Texas Constitution and the Texas Election Code, as amended. Such vacancy shall be filled by a majority vote of the qualified voters of the city at a special election called for that purpose. This person shall serve for the remainder of the unexpired term for such office.

Sec. 2.07. City council to be judge of the qualifications of its members.

The city council shall be the judge of the election and qualifications of its members. If a member of the city council is charged with a ground for removal, such charges shall be set for a public hearing not less than ten (10) nor more than thirty (30) days from the date on which the written charges are presented. At such hearing, the accused shall have the right to present evidence in his defense, but he shall be disqualified from voting as to his innocence or guilt. At the conclusion of evidence, a vote shall be taken, and upon the affirmative vote of three-fourths of all present and eligible voting council members, the accused member shall be removed from office and his seat declared vacant. The city council shall have the power to subpoena witnesses and require the production of records, but the decision of the city council in the exercise of such power shall be subject to review by the courts.

Sec. 2.08. City council compensation.

The council members shall receive compensation of \$100.00 per month. Any actual and necessary expense incurred while in the discharge of the duties of the office shall be paid upon an itemized statement of such expense being rendered, and approved by the city council at a regular meeting.

Sec. 2.09. The presiding officer, his duties and powers.

The mayor shall preside at meetings of the city council, and shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law. He may participate in the discussion of all matters coming before the city council and shall be entitled to vote on any matter to the same extent as any other council member.

Sec. 2.10. The mayor pro tem.

The city council, at its first meeting after election of council members, shall elect one of its members mayor pro tem, and he shall perform all the duties of the mayor in the absence or disability of the mayor.

Sec. 2.11. City council meetings.

- (a) *Regular meetings:* The city council shall have as many regular meetings as it shall deem necessary, provided, it shall have at least one (1) meeting each month to be held within the city limits of the City of The Colony.
- (b) *Special meetings:* Special meetings may be called by the mayor or upon written application of any three (3) members of the city council. The city secretary shall call a special meeting for the time and date set out in the application. Notice of special meetings shall be given by the city secretary to each member of the city council, including the mayor, and to the city manager, or left at such person's residence address. Notice shall be given to the public as required by state law.
- (c) *Open meetings:* Meetings shall be open to the public, except where closed meetings are authorized by law.

Sec. 2.12. City council to establish rules of procedure of voting.

The city council shall determine its own rules and order of business. Provisions shall be made for the keeping of minutes which shall be a public record. The vote of council members on any matter shall be recorded in the minutes.

Sec. 2.13. Quorum.

Any four (4) members of the city council (which may include the mayor) shall constitute a quorum necessary for the transaction of official business at any meeting of the council.

**CHAPTER III.
THE CITY COUNCIL:
POWERS AND ORDINANCE PROCEDURE**

Sec. 3.01. General powers and duties.

All powers of the city shall be vested in the city council except as otherwise provided by law or this charter, and the city council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Sec. 3.02. Franchise.

The city council shall have the power to grant, amend, renew, or extend by ordinance all franchises of all public utilities, of every character operating within the City of The Colony as required by applicable law.

Sec. 3.03. Zoning.

The city council shall have full power and authority to zone the city and to pass all necessary ordinances, rules, and regulations governing the same.

Sec. 3.04. Investigation by the city council.

The city council may make investigations into the affairs of the city and the conduct of any city department, division or office and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of those powers by the city council shall be guilty of a misdemeanor, and subject to a fine which shall have been set, by ordinance, by the city council.

Sec. 3.05. Appointment of city manager.

The city council shall appoint a city manager who shall serve at the pleasure of the city council. The city manager shall have such authority and responsibilities as may be designated and given by the city council.

Sec. 3.06. Appointment of city secretary.

The city council shall appoint a city secretary. The city secretary shall keep the minutes of the proceedings of all city council meetings, shall be the official custodian of the records of the city and shall perform such other duties and responsibilities as may be designated and granted by the city council. The city council may appoint such deputies as it deems necessary.

Sec. 3.07. Establishment of administrative departments, offices and agencies.

- (1) The city manager may establish, abolish, redesignate and/or combine departments, offices or agencies in addition to those provided for by this charter, and may prescribe the functions and duties of such departments, offices and agencies.
- (2) Except as provided elsewhere in this charter, all departments, offices and agencies of the city shall be under the direction and supervision of the city manager and shall be administered by officers appointed by and subject to the direction and supervision of the city manager. The city manager may, with the consent of the city council, serve as the head of one (1) or more city departments, offices or agencies or appoint one (1) person as head of two (2) or more of them.

Sec. 3.08. Appointment of a judge.

The city council shall appoint a judge or judges for the municipal court, and such alternate judges as the city council deems necessary, to serve at the pleasure of the city council. The judge shall receive such compensation as may be set by the city council. The city council may not authorize the mayor to act as judge.

Sec. 3.09. City council to act by ordinances.

In addition to such acts of the city council as are required by statute or by this charter to be by ordinance, every act of the city council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness, shall be by ordinance or resolution.

The enacting clause of all ordinances shall be "Be it ordained by the City Council of the City of The Colony."

Ordinances and resolutions shall be introduced to the city council only in writing or printed form. The subject or subjects of all ordinances shall be clearly expressed in the title.

Sec. 3.10. Method of adoption: General ordinances.

All ordinances passed by the city council shall be placed in the office of the city secretary and signed by the mayor. If the mayor shall fail or neglect to approve any ordinance for longer than three (3) days after the same is placed in the office of the city secretary, the same shall be deemed finally passed as though signed by the mayor.

The city attorney shall approve as to the form thereof, all ordinances prior to the enactment thereof by the city council. All ordinances shall be posted upon the bulletin board at city hall, which is provided for notices of council meetings, or the City's Internet website, and shall be posted not less than seventy-two (72) hours prior to the meeting at which such ordinances are enacted, provided that the city council may dispense with the posting requirement if it finds that an emergency exists in the preservation of the public health, safety, general welfare, or public property.

The city secretary shall give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture, by causing the caption of said ordinance to be published one (1) time in the official newspaper of the city. The affidavit of such publication by the publisher of the newspaper taken before any officer authorized to administer oaths and filed with the city secretary, shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Every ordinance requiring publication shall take effect immediately on the publication of its caption, unless otherwise provided therein or by state law. Every ordinance shall be authenticated by signature of the mayor and the city secretary.

Any ordinance or resolution (other than an emergency measure, the budget or routine expenditures of budgeted funds) which authorizes or requires the expenditure or diversion of any city funds for any purpose or proposed any new tax or increased or decreased tax, fee, license, charge or penalty shall have a separate statement signed by the city manager outlining the fiscal impact and probable gain or loss in income or cost of the measure each year for the first three (3) years after its passage and a statement as to whether or not there will be cost involved thereafter. Such separate statement shall not be a part of the ordinance or resolution but shall remain with the ordinance or resolution throughout the entire legislative process, including submission to the mayor.

Sec. 3.11. Amendment and repeal of ordinances.

The city council shall have the power to cause an ordinance of the city, except as provided in section 8.06, to be amended or repealed when such amendment or repeal is adopted by a majority vote of the city council.

Sec. 3.12. Codification.

The city council shall have the power to cause the ordinances of the city to be corrected, amended, revised, codified and printed in code form as often as the city council deems advisable, and such printed code, when adopted by the city council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. All printed ordinances or codes of ordinances shall be admitted into evidence in all courts without further proof, and shall have the same force and effect as did the original ordinance.

**CHAPTER IV.
THE CITY MANAGER: HIS APPOINTMENT,
POWERS, DUTIES AND ADMINISTRATIVE ORGANIZATION**

Sec. 4.01. Appointment and qualifications.

The city council, by majority vote, shall appoint a city manager who shall be chief administrative and executive officer of the city and shall be responsible to the city council for the administration of the affairs of the city. He shall be chosen by the city council solely on the basis of his executive and administrative training, experience and ability and need not, when appointed, be a resident of the city, except during his tenure of office, he shall be a resident. No member of the city council shall, during the time for which he is elected and for two (2) years thereafter, be appointed city manager. The city manager shall be bonded at city expense in an amount of not less than ten thousand dollars (\$10,000.00).

Sec. 4.02. Term and salary.

The city manager shall not be appointed for a definite term but may be removed at the will and pleasure of the city council by a vote of the majority of the entire city council. The action of the city council in the suspending or removing of the city manager shall be final, it being the intention of this charter to vest all authority and fix all responsibilities of such suspension or removal in the city council. In case of absence or disability of the city manager, the city council may designate some qualified person to perform the duties of the office during such absence or disability.

Sec. 4.03. Duties of the city manager.

- (1) See that all state laws and city ordinances are effectively enforced.
- (2) Appoint, suspend or remove all or any one of the directors of departments and employees, except as otherwise provided in this charter.
- (3) Attend all meetings of the city council except when excused by city council, and shall have the right to take part in the discussions.
- (4) Prepare the budget annually and submit it to the city council and be responsible for its administration after its adoption.
- (5) Prepare and submit to the city council at the end of the fiscal year a complete report on

the finances and administrative activities of the city for the preceding year.

- (6) Keep the city council advised of the financial condition and future needs of the city and make such recommendations as may seem to him advisable.
- (7) Make other such reports as the city council may require concerning the operations of city departments, offices and agencies subject to his direction and supervision.
- (8) The city manager or his designated representative or representatives shall act as an educational liaison for the City of The Colony.
- (9) Perform such other duties as may be prescribed by this charter or required of him by the city council, as consistent with this charter.

Sec. 4.04. Administrative organization.

- (a) The administrative ordinance authority of the city council shall not extend beyond the scope and limitations of this charter, the constitution and the laws of the State of Texas.
- (b) Unless otherwise specifically stated herein, all administrative departments, offices and agencies will be integrated under the city manager.

Sec. 4.05. The merit principle and classified service.

- (a) The personnel system of the City of The Colony shall be an integrated system based on the principle of "best qualified".
- (b) It shall be the city manager's responsibility to initiate guidelines for personnel. Additionally, the city manager will prepare job descriptions for all city positions and requirements for securing these positions. It shall be the duty of the city manager to insure that the "best qualified" are hired and that proper actions are taken to terminate those employees who do not maintain high levels of service.

Sec. 4.06. Residency requirement.

The city manager and city secretary as may be prescribed by ordinance, shall be required to live within the city limits of The Colony. All persons hired for such positions shall be allowed one (1) year to comply with this provision. The city council may waive the residency requirement.

Sec. 4.07. Appointments and removals.

Neither the city council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees when the city manager or any of his subordinates are empowered to appoint, but the city council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees, except as otherwise provided in this charter.

Sec. 4.08. Interference with administration.

Except for the purposes of inquiries and investigations as set forth in this charter, the city council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the city council nor its members shall give orders to any such officer or employee, either publicly or privately, except as otherwise provided in this charter.

Sec. 4.09. Nepotism.

No person related within the second degree by affinity or third degree by consanguinity to the mayor or any member of the city council or to the city manager shall be appointed to any paid office, position, clerkship, or other service of the city.

**CHAPTER V.
CITY ATTORNEY**

Sec. 5.01. The city attorney: His appointment and duties.

The city council, by majority vote, shall appoint a duly qualified and licensed attorney, practicing law in the State of Texas, to be an attorney for the city, hereinafter referred to as the "city attorney". He shall serve at the discretion of the city council and he shall receive for his services such compensation as may be established by the city council. The city attorney shall be the legal advisor of, and attorney for all of the offices and departments of the city, and he shall represent the city in all litigation and legal proceedings, provided, that the city council may retain special counsel at any time they deem same appropriate and necessary. He shall review and concur or dissent upon all documents, contracts, and legal instruments in which the city may have an interest. The city attorney shall perform other duties prescribed by this charter, by ordinance or as directed by the city council.

**CHAPTER VI.
THE MUNICIPAL COURT AND ITS CLERK**

Sec. 6.01. Municipal court.

There shall be established and maintained a court, designated as a municipal court, for the trial of misdemeanor offenses, with all such powers and duties as are now or may hereafter be prescribed by the laws of the State of Texas relative to municipal courts. The city council may establish the municipal court as a court of record if authorized by state law.

Sec. 6.02. Clerk of the municipal court.

The city manager may appoint a clerk of the municipal court with such duties and responsibilities as the city manager may direct. The clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in the issuing of the process of such court and in conducting the business thereof. Nothing herein shall prevent the city secretary or any other city official or

employee from also being designated the clerk, and the city manager may appoint a deputy with the same power as the clerk.

CHAPTER VII. NOMINATIONS, ELECTIONS AND RECALL

Sec. 7.01. General election.

The general city election shall be held on a uniform election date as prescribed by the Texas Election Code, as amended.

Sec. 7.02. Filing for office.

Any qualified person who desires to become a candidate for election to the office of city council, including mayor, shall file with the city secretary, within the time prescribed by law, an application as required by law.

Sec. 7.03. Official ballot.

The official ballot shall be drawn by the city secretary in the manner, form and time prescribed by law.

Sec. 7.04. Canvassing.

The returns of every municipal election shall be delivered forthwith by the election judge to the mayor and one copy to the city secretary. After a general or special election either at a special meeting of the city council or at the next regular meeting, the city council shall canvass the returns and declare the results of such election in accordance with the Texas Election Code, as amended. Returns of each municipal election shall be recorded in the minutes of the city council. The candidates who receive a majority of the legal votes cast for each place shall be declared elected.

Sec. 7.05. Runoff election and tie vote.

A runoff election shall be held whenever no candidate receives a majority of the votes cast for the place for which such person is running. The two (2) persons receiving the highest number of votes shall be candidates in the runoff election following any recount as may be required by the Texas Election Code, as amended. Any runoff election shall be held in accordance with state law. The exact date of the runoff shall be established by the city council, and notice of the election and conduct thereof shall be the same as for the general city election.

In the event no candidate receives a majority of the votes cast of the place for which such person is running, and more than two (2) candidates tie for the highest number of votes in the main election, or two (2) or more candidates tie for the second highest number of votes in the main election, a runoff election shall be conducted consistent with the Texas Election Code, as amended.

Sec. 7.06. Special elections.

The city council may, by ordinance or resolution, call special elections as authorized by law and

this charter.

Sec. 7.07. Power of recall.

The citizens of The Colony reserve the power to recall any member of the city council, including the mayor, and may exercise such power by filing with the city secretary a petition, obtained from the city secretary's office, signed by qualified voters of the city equal in number to at least thirty percent (30%) of the qualified voters of the city, demanding the removal of a member of the city council. In order for the petition to issue, any qualified voter of the city shall make and file with the city secretary an affidavit containing the name of any member of the city council whose removal is sought, which said affidavit shall distinctly and specifically state the ground or grounds upon which such removal is predicated. The city secretary shall deliver to the affiant making such charges, copies of petition blanks for demanding such removal, printed on forms which shall be kept on hand. Such blanks shall be issued by the city secretary with his signature thereto attached, and they shall be dated and addressed to the city council, indicate the person to whom issued, and shall state the ground or grounds as contained in the initial affidavit. A recall petition to be effective, must be returned and filed with the city secretary within forty-five (45) days after issuance.

Sec. 7.08. Recall election.

Within fifteen (15) days after the date of the filing of the recall petition, the city secretary shall certify the petition in the manner established in section 8.04, and present such petition to the city council.

If the duly certified petition meets the requirements set forth, it shall be the duty of the city council to order an election within the time prescribed by applicable law.

Sec. 7.09. Recall ballot.

Ballots used at recall elections shall conform to the following requirements:

- (a) With respect to each person whose removal is sought, the question shall be submitted "Shall (name) be removed from the office as (member of the city council) (mayor)"
- (b) Immediately below each such question there shall be printed the two (2) following propositions, one above the other, in the order indicated:

"For the removal of (name)"
"Against the removal of (name)"

Sec. 7.10. Results of a recall election.

If a majority of the votes cast at such election shall be for the removal of the individual named on the ballot, the city council shall upon canvassing of the election results declare the office vacant and such vacancy shall be filled in accordance with the provisions of this charter.

Sec. 7.11. Limitations on recall.

No recall petition shall be filed against any officer of the city within six (6) months after such person's election. A member of city council is not subject to more than one (1) recall election during any one (1) term of office.

**CHAPTER VIII.
INITIATIVE AND REFERENDUM**

Sec. 8.01. Power of initiative.

The citizens of The Colony reserve the power of direct legislation by initiative, and in the exercise of such power, may propose any ordinance not in conflict with this charter, or state law. The power of initiative shall not extend to an ordinance relating to the budget or capital program, appropriation of money, issuing of bonds, levy of taxes, salaries of City officers or employees, or any zoning amendment or amendment to the City's comprehensive plan. Any initiated ordinance may be submitted to the city council by a petition which must be signed by qualified voters of the city equal in number to at least fifteen percent (15%) of the qualified voters.

Sec. 8.02. Power of referendum.

The citizens of The Colony reserve the power to approve or reject at the polls any ordinance enacted by the city council which is subject to the initiative process under this charter, or state law. The power of referendum shall not extend to an ordinance relating to the budget or capital program, appropriation of money, issuing of bonds, levy of taxes, or any zoning amendment or amendment to the City's comprehensive plan. Prior to or within thirty (30) days after the effective date of any ordinance which is subject to referendum, a petition signed by qualified voters of the city, equal in number to at least fifteen percent (15%) of the number of qualified voters of the city, may be filed with the city secretary requesting that any such ordinance be either repealed or submitted to a vote by the people. When such petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters, as herein provided.

Sec. 8.03. Form of petition.

Initiative petition papers shall contain the full text of the proposed legislation in the form of an ordinance, including a description caption. The signatures to the initiative or referendum need not be all appended to one paper, but the individual signers shall sign their name in ink or indelible pencil and shall add their place of residence by street and number. One of the signers of each separate paper petition shall make an affidavit that such person, and only such person, personally circulated such petition and that each signature appended thereto was made in such person's presence and is the genuine signature of the person whose name it purports to be, and further, that the signature shall have been placed thereon more than forty-five (45) days prior to the filing of such petition.

Sec. 8.04. Filing, examination and certification of petition.

Within ten (10) days after an initiative or referendum petition is filed, the secretary shall determine whether the same is signed by the requisite number of qualified voters. The city secretary shall declare void any petition paper which does not have an affidavit attached thereto as required by section 8.03 of this chapter. After completing examination of the petition, the city secretary shall certify the results thereof to the city council at its next meeting, stating the number of persons found on the petition who are qualified to vote and the number of persons found on the petition who are not qualified to vote. If the certification of the city secretary shall show an initiative or referendum petition to be insufficient, the city secretary shall notify the person filing the petition, and it may be amended within ten (10) days from the date of such notice by filing a supplementary petition upon additional paper signed and filed as provided for in the original petition. Within ten (10) days after such amendment is filed, the city secretary shall examine the amended petition and certify as to its sufficiency. If the amended initiative petition is found to be insufficient, the city secretary shall return the petition to the person filing same, without prejudice to the filing of a new petition for the same purpose; provided, however, that upon finding the amended initiative petition to be insufficient, no new petition covering the same subject matter shall be filed until six (6) months shall have elapsed from the date of filing of the original initiative petition.

Sec. 8.05. City council consideration and submission to voters.

When the city council receives an authorized initiative petition certified by the city secretary to be sufficient, the city council shall either:

- (a) pass the initiated ordinance without amendment within thirty (30) days after the date of the certification to the city council; such passage will have the same force and effect as though it had been adopted by the electorate; or
- (b) submit said initiated ordinance without amendment to a vote of the qualified voters of the city at a general or special election to be held on a date, if permitted by law, within sixty (60) days after the date of the certification to the city council, or on the next date thereafter on which such election is permitted by law; or
- (c) at such election, submit said initiated ordinance without amendment, and an alternative ordinance on the same subject proposed by the city council.

No ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two (2) years from the date of such election.

When the city council receives an authorized referendum petition certified by the city secretary to be sufficient, the city council shall reconsider the referred ordinance, and if upon reconsideration such ordinance is not repealed, it shall be submitted to the voters at a general or special election to be held on a uniform election date consistent with the Texas Election Code, as amended.

Sec. 8.06. Ballot form and results of election.

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words: "For the ordinance" and "Against the ordinance."

An initiated ordinance and an alternative ordinance proposed by the city council which are submitted at the same election shall be appropriately identified as the initiated ordinance and as the ordinance proposed by the city council.

Any number of ordinances may be voted upon at the same election in accordance with the provisions of this chapter. An ordinance submitted and receiving an affirmative majority of the votes cast, shall thereupon be effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two (2) years by affirmative votes of the city council. A referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.

**CHAPTER IX.
TAXATION: COLLECTOR, POWER TO TAX,
METHOD OF ASSESSMENT AND COLLECTION.**

Sec. 9.01. Tax collector.

There shall be a city tax collector whose appointment shall be made by the city council and who shall serve at the pleasure of the city council. The tax collector shall give a surety bond for the faithful performance of his duties in a sum which shall be established by the city council. In lieu of appointing a tax collector, the city council may contract for such services.

Sec. 9.02. Power of tax.

The city council shall have power to levy, assess and collect for general purposes an ad valorem tax on real, personal and fixed property within the territory of the City of The Colony, not exempt from taxation by the constitution and laws of the State of Texas, based upon its assessed value as provided by law, to the extent of the constitutional limit permitted by the State of Texas to cities of over five thousand (5,000) population.

Sec. 9.03. Property subject to tax, method of assessment.

All real property and personal property within the City of The Colony, not expressly exempted by law, shall be subject to annual taxation. On the first day of January each year, the city assessor-collector shall make available to each owner of property within the city, a tax rendition form on which such property owner shall state the value of his property computed in a manner prescribed by the city council, and shall return said form to the city assessor-collector before the first day of April of that year. The assessor-collector shall ascertain such property in the city subject to taxation as has not been rendered and same shall be presented by him to the board of equalization for valuation by said board.

Sec. 9.04. Taxes when due and payable.

- (a) All taxes due the city shall be payable at the office of the tax assessor-collector. The tax rolls shall be completed and approved not later than October 1st of each year. Taxes shall become due and payable on October first of the year assessed and shall be paid on or before January 31st of the following year. The city council may allow discounts for early payment of taxes as may be provided by ordinance. All such taxes not paid on or before such date shall be deemed delinquent and shall be subject to such penalty and interest as the city council may provide by ordinance. The city council may provide further by ordinance that all taxes, either current or delinquent, due the city may be paid in installments. Failure to levy and assess taxes through omission in preparation of the approved tax roll shall not relieve the person, firm or corporation so omitted from obligation to pay such current or past due taxes as shown to be payable by recheck of the rolls and receipts for the years in question. The city council may only waive penalties and interest consistent with state law.
- (b) The city assessor-collector shall assess property which has been omitted from assessment in prior years upon a current supplemental assessment roll. The taxes upon such supplemental assessment shall be due at once and if not paid within sixty (60) days thereafter, shall be deemed delinquent and shall be subject to the same penalty and interest as other delinquent taxes for such year.

Sec. 9.05. Tax lien and liability.

A special lien is hereby created on all taxable property, located in the city, in favor of the city for all taxes, ad valorem, occupational or otherwise. Said lien shall exist from January 1st in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, can ever defeat such lien, but the tax assessor-collector can pursue such property and whenever found may, by judicial writ, seize and sell enough thereof to satisfy such taxes.

Sec. 9.06. Validity of tax rolls.

No irregularity in the time or manner of making or returning the city assessment rolls or the approval of such rolls shall invalidate any assessment.

Sec. 9.07. Other rules and regulations.

Except as otherwise provided by law or by this charter, the city council shall have the power to provide by ordinance for the assessment and collection of all taxes, and to make such rules, regulations, and mode of procedure to enforce the collection by and payment to the city tax assessor-collector as it may deem expedient, and may provide such penalties for the failure to pay such taxes as it may deem expedient.

CHAPTER X.
FINANCIAL ADMINISTRATION: BUDGET,
APPROPRIATIONS AND INDEBTEDNESS

Sec. 10.01. Fiscal year.

The fiscal year of the city shall begin on the first day of October of each calendar year and shall end on the thirtieth day of September of the following calendar year. The fiscal year will also be the accounting and budget year.

All funds collected by the city during any fiscal year, including both current and delinquent revenue, shall belong to such fiscal year and, except funds designated to pay interest and create a sinking fund on any indebtedness of the city, may be applied to the payment of the expense incurred during such fiscal year. Any revenues, uncollected at the end of any fiscal year, and any unencumbered funds actually on hand, shall become resources of the next succeeding fiscal year.

Sec. 10.02. Budget.

The city manager shall submit a proposed budget to the city council prior to the thirty-first (31st) day of July each year. The budget shall provide a complete financial plan for the fiscal year and shall contain, but not be limited to the following:

- (a) A budget message that shall consist of an outline explaining the proposed financial policies of the city for the upcoming fiscal year.
- (b) A consolidated statement of anticipated receipts and proposed expenditures of all funds.
- (c) Tax levies and tax collections from the previous fiscal year.
- (d) A proposed list of upcoming expenditures for all bonds.
- (e) A projected list of capital projects which are proposed to be undertaken within the three (3) next succeeding years.
- (f) Other such information as may be required by city council.

Sec. 10.03. Proposed budget.

The proposed budget shall be filed with the city secretary not less than thirty (30) days prior to the time the city council makes its tax levy for the current fiscal year, and shall be available for the inspection of any taxpayer.

Sec. 10.04. Public hearing on proposed budget.

During the city council meeting at which the proposed budget is submitted, the city council shall determine the date and place of a public hearing on the budget. The city council shall cause to be published in the official newspaper of the city, the time and place of such public hearing, as may be required by state law. At this hearing, citizens may express opinions concerning the proposed budget.

Sec. 10.05. Proceeding on adoption of proposed budget.

After public hearing, the city council shall act upon the budget submitted, making such changes as in their judgment the law warrants and the best interests of the taxpayers of the city demand. No budget shall be adopted or appropriations made unless the total estimated income and funds available shall be equal to or in excess of such budget or appropriations, except as otherwise provided by law.

Sec. 10.06. Appropriation.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. Except as provided in this chapter, no funds of the city shall be expended nor shall any obligation for the expenditure of money be incurred, except pursuant to the annual appropriation ordinance provided in this chapter. At the close of each fiscal year any unencumbered balance of appropriation shall revert to the fund from which appropriated and become available for reappropriation for the next fiscal year. The city council may transfer any unencumbered appropriation balance or portion thereof from one office, department, or agency to another, at any time. The city manager shall have authority, with city council approval, to transfer appropriation balances from one expenditure account to another within a single office, department, or agency of the city.

Sec. 10.07. Emergency appropriations.

At any time in any fiscal year, the city council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure, for other than regular recurring requirements, to protect the public health, safety or welfare. Such appropriation shall be by emergency ordinance adopted by the affirmative vote of two-thirds (2/3) of the council members. Should the unappropriated and unencumbered revenues, income and available funds of the city for such fiscal year be insufficient to meet the expenditures under the appropriation authorized by this section thereby creating a deficit, the city council shall include the amount of such deficit in its budget for the following fiscal year, during which such deficit shall be paid off and discharged.

Sec. 10.08. Borrowing to meet emergency appropriations.

In the absence of unappropriated available revenue or other funds to meet emergency appropriations under the provisions of the preceding section, the city council may, by resolution, authorize the borrowing of money to meet such deficit by the issuance of notes, each of which shall be designated "Emergency Note" and may be renewed but any such notes and any renewals thereof shall mature and be payable not later than the last day of the fiscal year in which the emergency appropriation was made, as provided in the last preceding section.

Sec. 10.09. Depository.

All moneys received by any person, department, or agency of the city for or in connection with affairs of the city shall be deposited in the city depository or depositories which shall be designated by the city council in accordance with such regulations and subject to such requirements as to security for deposits and interest vouchers, or warrants for the withdrawal of

money from the city depositories shall be signed by two (2) individuals as prescribed by ordinance.

Sec. 10.10. Defect shall not invalidate the tax levy.

Error or defects in the form or preparation of the budget or the failure to perform any procedural requirements shall not nullify the tax levy or the tax rate.

Sec. 10.11. Power to issue bonds.

In keeping with the constitution of the State of Texas, and not contrary thereto, the City of The Colony, shall have the right to issue all tax bonds, revenue bonds, funding and refunding bonds, time warrants and other evidences of indebtedness as now authorized or as may hereafter be authorized to be issued by cities and towns by the general laws of the State of Texas.

Sec. 10.12. Manner of issuance.

Bonds and warrants of the City of The Colony shall be issued in the manner provided by the general laws of the State of Texas applicable to cities and towns.

Sec. 10.13. Audit of financial records.

At the close of each fiscal year, the city council shall cause an independent audit to be made by a certified public accountant. The accountant will be appointed by the city council and shall have no personal interest in the financial affairs of the City of The Colony or any of its officers. During the course of the audit all the financial records of the city together with pertinent details of any or all transactions, as deemed necessary by the auditor, shall be made available for examination. Upon completion, the final report of audit will be placed on permanent file in the office of the city secretary and will be available for public inspection.

CHAPTER XI. CODE OF CONDUCT

Sec. 11.01. Ethics.

No officer of the City or a relative of an officer shall knowingly:

- (a) Represent or appear on behalf of the private interests of others before the city council, the board, commission or committee of which the officer is a member, or before the city council or other board on an appeal from such board, commission or committee concerning such matter;
- (b) Use such person's official position or knowledge from the official position to secure special privileges or exemptions for the purpose of achieving monetary gain for such person or others;
- (c) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is normally available to every other citizen, individual, business organization or group;

- (d) Disclose or reveal any information, or the contents of any discussion, considered during an executive session or closed meeting conducted pursuant to the Texas Open Meetings Act, V.T.C.A., Government Code Chapter 551, as amended, held by the city council, any City agency, board, commission, committee, or department except as may be authorized by a majority vote of that body, or as required by law or a court of competent jurisdiction.
- (e) Directly or indirectly use any confidential information which was gained by reason of such person's official position for such person's own personal gain or benefit or for the benefit of others. Disclose or reveal any information or the contents of any discussion which would violate the provisions of the Texas Public Information Act, V.T.C.A., Government Code Chapter 552, as amended, or the Texas Open Meetings Act, V.T.C.A., Government Code Chapter 551, as amended;
- (f) Definition: An "officer" or "official" of the City is a person who holds an appointed or elected position that exercises responsibilities beyond those that are merely advisory in nature. An officer includes, but is not limited to, city council members, members of the Planning and Zoning Commission, the Board of Adjustment, city manager, City Secretary, and Municipal Court Judge.

Sec. 11.02. Nepotism.

No person may be employed, appointed, or confirmed to any position that is to be paid by public funds if that individual is related by consanguinity within the third degree or within the second degree by affinity to any member of the city council or the city manager.

Sec. 11.03. Conflict of interest.

It shall be grounds for removal from office or termination of employment with the City if an official knowingly violates the provisions of this section or participates in a vote or decision on any matter involving a business entity or real property in which the official has a "substantial interest," consistent with chapter 171 of the Texas Local Government Code, as amended. Any willful violation of this section shall constitute malfeasance in office and any officer or employee found guilty thereof shall thereby forfeit his or her office or position. Any violation of this section with the knowledge, express or implied, of the person or the corporation contracting with the governing body of the City shall render the contract involved voidable by the city manager or the city council.

Sec. 11.04. Lobbying by former officials.

No former officer of the City shall knowingly represent or appear on behalf of the private interest of others before the city council, the board, commission or committee of which the officer formerly served, for at least six (6) months after the officer ends his association or service with the City.

Sec. 11.05. Boards and commissions.

No person serving on any board, commission or committee may be related within the second degree by consanguinity or the first degree by affinity to any city council member or other member serving on the same board, commission or committee.

CHAPTER XII. GENERAL PROVISIONS

Sec. 12.01. Publicity of records.

All records and accounts of every office, department, or agency of the city shall be open to inspection by any citizen or by any representative of the press at all reasonable times and under such reasonable regulations as may be established by the city manager and/or the city council, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish or those records and documents prohibited from disclosure by law.

Sec. 12.02. Official bond for city employees.

The city council shall require bonds of all municipal officers and employees who receive or disburse any funds of the city. The amount of such bonds shall be determined by the city council and the cost thereof shall be paid by the city.

Sec. 12.03. Tort liability.

Before the city shall be liable for damages for the death or personal injuries of any person or for damages to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article I, section 17, Constitution of the State of Texas, the person injured, if living, or his representatives, if deceased, or the owner, his agent or attorney of the property damaged or destroyed shall give the city manager or city secretary notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within ninety (90) days after the same has been sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number, at the date the claim is presented, the actual residence of such claimant for six (6) months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages. No action at law for damages shall be brought against the city for such death, injury, damage or destruction prior to the expiration of sixty (60) days after the notice hereinbefore described has been filed with the city manager or the city secretary.

Sec. 12.04. Severability clause.

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Sec. 12.05. Effect of charter on existing laws.

All codes, ordinances, resolutions, rules and regulations in force on the effective date of this charter, and not in conflict with this charter shall remain in force until altered, amended or repealed by the city council. All taxes, assessments, liens, encumbrances and demands, of or against the city, fixed or established before such date, or for the fixing or establishing of which

proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of the beginning of such proceedings or under the law after the adoption of this charter. All rights of the city under existing franchises and contracts and all existing authority for the issuance of bonds, granted prior to adoption of this charter, shall be preserved in full force and effect.

Sec. 12.06. Applicability of general laws.

The constitution of the State of Texas, the statutes of said state applicable to home rule municipal corporations, as now or hereafter enacted, this charter and ordinances enacted pursuant hereto shall in the order mentioned, be applicable to the City of The Colony but the city shall also have the power to exercise any and all powers conferred by the laws of the State of Texas upon any kind of city, town or village, not contrary to the provisions of said home rule status, charter and ordinances, but the exercise of any such powers by the City of The Colony shall be optional with it, and it shall not be required to conform to the law governing any other cities, towns or villages unless and until by ordinance it adopts same.

Sec. 12.07. Amending the charter.

Amendments to this charter may be formulated and submitted to the voters of the city in the manner provided by the Texas Elections Code, as amended.

Sec. 12.08. Judicial notice.

This charter shall be deemed a public act and shall have the force and effect of a general law, may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places.

Sec. 12.09. Gender of wording.

The masculine gender of the wording used throughout this charter shall always be interpreted to mean either sex.

Sec. 12.10. No Waiver of Immunity.

Nothing in this charter is intended to waive the city's governmental immunity from suit and/or damages.